

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MOHAMMAD S. KHAN	:	CIVIL ACTION
	:	
v.	:	
	:	
ACCURATE MOLD, INC.	:	
	:	
v.	:	
	:	
T & L PERSONNEL SERVICES, INC and	:	
TAHN V. LAM TEMPORARY SERVICES	:	NO. 99-764

O R D E R - M E M O R A N D U M

AND NOW, this 24th day of May, 1999, defendant Accurate Mold, Inc.'s motion to transfer venue is denied. 28 U.S.C. § 1406(a).

According to the complaint, on June 2, 1997 plaintiff Mohammad S. Khan lost his right hand while using Accurate Mold's punch press.¹ His claim is for compensatory damages under theories of negligence, strict liability, and breaches of warranty of merchantability and fitness for a particular purpose.

Since jurisdiction is diversity, venue is governed by 28 U.S.C. § 1391(a), which provides that actions may —

be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant is subject to personal jurisdiction at the time the action is commenced, if there

¹The complaint does not aver plaintiff's relationship to Accurate Mold, Inc., as an employee or otherwise.

is no district in which the action may otherwise be brought.

28 U.S.C. § 1391(a). For the purpose of venue, "a defendant that is a corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced." 28 U.S.C. § 1391(c).

Accurate Mold contends that venue does not lie in this District because as a corporation its principal place of business is in New Jersey and the events giving rise to this action occurred in New Jersey. However, Accurate Mold does not assert that it is not subject to personal jurisdiction in this District, and the burden to raise such a challenge rests on defendant. Accordingly, plaintiff's choice of forum will not be disturbed.

Edmund V. Ludwig, J.